

# ***Lesson 5***

## ***Receive and Log Application***

Before a permit application begins the review process, it should be logged into the agency's tracking system and, most likely, assigned some sort of identification number or tracking number. A schedule or priority, if needed, is assigned at this time. In the case of a Title V permit there are statutory/regulatory conditions that are date dependent. Therefore, proper dating and tracking of a permit may be critical to the agency and to the source.

### ***Objectives***

At the end of this lesson the student should be able to:

1. Describe the provisions or protection afforded by the Title V application shield and permit shield.
2. Describe the conditions under which a permit shield is, or is not valid.

### ***Permits Other than Title V***

There are no federally mandated logging procedures for non-Title V permits. However, in order to manage the permitting work load, and to avoid possible legal liabilities, most agencies have developed a tracking system to keep track of dates and significant permit activity. As a minimum, usually:

- dates are logged
- each permit is assigned a permit number or I.D
- an agency person responsible for the permit is assigned

### ***Title V Operating Permit Considerations***

In Title V, some aspects of compliance vs. noncompliance may hinge upon dates of submission, processing, and various activities. Two shields provided in the Title V program are important and depend on timely submittal and completeness of applications. The shields are:

1. the application shield
2. the permit shield

## ***Application Shield***

The **application shield** was established by statute primarily to shield sources during the interim period between submittal of a complete application and permit issuance. In short, the application shield protects the source from enforcement action, due to not having a permit, during the time the permit application is being processed.

**application shield:** protects the source from enforcement action while the application is being processed.

There are two important time limits relative to the application shield:

1. The permitting authority must notify the source of any deficiencies or incompleteness in the application within sixty days of the permit being received. After sixty days, the permit is deemed complete.
2. A permit must be issued within eighteen months after a complete permit has been received.

**complete(ness) [determination]:** the agency has determined that all required and necessary information has been supplied.

There are several important points to note about the application shield:

- To be eligible for the application shield, a source must make a timely submission of the application. New sources are required to submit their applications within 12 months of operation.
- The application shield only applies if the application is timely *and* complete.
- The application shield applies to the initial Title V permit and to renewals.
- The application shield is primarily a benefit to Title V sources, but is also important to the permitting authority.

Neither the completeness determination nor the application shield alleviates the permit applicant from the need to provide further information which the permitting authority determines necessary for processing the permit application. If a permit applicant does not submit required information on or before a written deadline, the application shield may be lost. It is important that the requirements and benefits of the Title V application shield be explained to the permit applicant during the early stages of the application preparation.

The application shield starts at the earliest of the two following conditions:

1. The application is deemed complete by the issuing agency.
2. Sixty days after the application is submitted if the completeness review has not been completed (default completeness)

The application shield is codified in Part 70 at 70.7(b), and is described in the preamble to the final rule on page 32275 of the July 21, 1992, Federal Register.

## **Permit Shield**

The objective of the **permit shield** is to support a single document that serves as a comprehensive statement of requirements for each source.

The essence of the shield is that, as long as the permit conditions are met, the source is deemed to be in compliance with all of the requirements of the Clean Air Act. From the permit applicant's perspective, the shield says that the permit contains everything that must be done to comply with the Act. It is important to understand, however, that only those requirements that have been identified and reviewed by the permitting authority can be shielded. In other words, if a source fails to identify an applicable requirement and it is not included in the permit, the shield does not apply to the omission.

**permit shield:** deems a source to be in compliance as long as the terms and conditions of the permit are met.

If a source receives a permit, which includes a permit shield, and the source operates in accordance with the permit terms, the source is deemed to be in compliance with all the provisions of the Clean Air Act, provided the following conditions are met:

The permit must expressly state that a permit shield exists, and

All applicable provisions are included in the permit, or the provisions that are not applicable are identified in the permit.

The permit shield does not apply to:

1. New requirements that become applicable to the source.
2. The ability of EPA to obtain information needed to determine compliance or other issues under section 114, or to information needed by another permitting authority.
3. Acid rain requirements.
4. Some provisions, such as administrative amendments, minor permit modifications, and some changes made under operational flexibility.
5. Violations before the permit was issued.

Keep in mind that the permit shield is not a mandatory part of the operating permit program, but is an option left to the individual state permitting authority. Therefore, it is important to look at the permit shield specifications for your state. The permit shield is described in 40 CFR 70.6(f).



## ***Review Questions***

1. An application shield protects the source from enforcement action while the application is being processed for:
  - a. An NSR permit
  - b. A PSD permit
  - c. A Title V permit
  - d. All of the above
  - e. None of the above
2. Which of the following steps is essential for establishing an application shield?
  - a. Determine whether/what kind of permit is required
  - b. Prepare and submit application
  - c. Receive and log application
  - d. Completeness review
  - e. Technical review
3. A permit shield is important because:
  - a. It protects the source from unwarranted increases in permit fees
  - b. It protects the source from having to meet any new applicable requirements
  - c. The source is shielded from enforcement action under the Clean Air Act if it complies with all the requirements of the Title V permit
  - d. All of the above
  - e. None of the above
4. Which of the following conditions are not protected by a permit shield?
  - a. New requirements that become applicable to the source
  - b. Acid rain requirements
  - c. Violations before the permit was issued
  - d. a and c above
  - e. a, b, and c above



## ***Review Question Answers***

1. **c.** A Title V permit
2. **c.** Receipt and logging of application
3. **c.** The source is shielded from enforcement action under the Clean Air Act if it complies with all the requirements of the Title V permit
4. **e.** a, b, and c above

